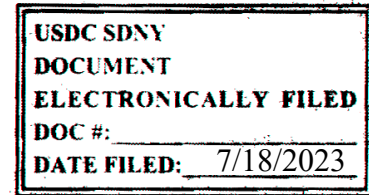


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:

TERRORIST ATTACKS ON  
SEPTEMBER 11, 2001

03-MD-01570 (GBD)(SN)

**REPORT &  
RECOMMENDATION**

-----X

SARAH NETBURN, United States Magistrate Judge.

TO THE HONORABLE GEORGE B. DANIELS:

This document relates to:

Mandelkow et al. v. Islamic Republic of Iran, No. 20-cv-00315  
Alcables et al. v. Islamic Republic of Iran, No. 20-cv-00340  
Anderson et al. v. Islamic Republic of Iran, No. 20-cv-00354  
Ahearn et al. v. Islamic Republic of Iran, No. 20-cv-00355  
Asciutto et al. v. Islamic Republic of Iran, No. 20-cv-00411  
Amin et al. v. Islamic Republic of Iran, No. 20-cv-00412  
Basci et al. v. Islamic Republic of Iran, No. 20-cv-00415

The Court issued a Report and Recommendation on March 3, 2023, addressing seven default judgment motions brought on behalf of “Latent Injury Decedents” and their “Surviving Family Members.” ECF No. 8901.<sup>1</sup> Because that Report raised factual issues with several claims, Judge Daniels recommitted the motions to me to “receive and review Plaintiffs’ supplemental evidence and issue a Supplemental Report and Recommendation.” ECF No. 8920. Counsel has since submitted additional evidence. See ECF No. 9066. After reviewing that evidence and the broader record, the Court issues revised recommendations as discussed below.

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<sup>1</sup> All ECF numbers refer to the main MDL docket, No. 03-md-01570.

## DISCUSSION<sup>2</sup>

The Court previously determined that Iran is liable to people who died from latent injuries related to the 9/11 Attacks but not to their family members. See ECF No. 8901 at 2–16. For the former group, the Latent Injury Decedents, it set a baseline award of \$7 million and authorized an upward departure to one plaintiff with “devastating” injuries. Id. at 18; see id. at 16–19. Its analyses of liability and the appropriate baseline award were premised on two conditions: (1) that each decedent suffered a 9/11-related injury; and (2) that the injury was ultimately fatal.

On those two points, the evidence filed by five Latent Injury Decedents was inconclusive. See id. at 11, 26. Counsel has since submitted records that resolves those factual questions. With respect to the claims brought on behalf of **Marion Claire Jones, Paul Murphy, Mary Elizabeth Reynolds, and Freddie Wallace-Rakis**, the supplemental evidence establishes that the decedents’ deaths were caused by a 9/11-linked injury. See ECF Nos. 9066 at 2–7, 9066-1, 9066-2, 9066-3, 9066-4. Accordingly, their estates are entitled to baseline awards of \$7 million.

With respect to the claims brought on behalf of **Victor Casaletto**, the supplemental evidence establishes that he sustained a 9/11-related injury but did not die from it. See ECF No. 9066 at 7–8. Victor Casaletto was a building engineer for the New York Stock Exchange. His work there on 9/11 and in the days after exposed him to toxins that led to skin cancer. His condition caused growths “everywhere,” and his wife describes his lasting “psychological trauma.” ECF No. 8360-13 at 20–21. Because these injuries are analogous to the types of injuries considered “significant” under the Court’s personal injury framework, ECF No. 5879 at 6, his

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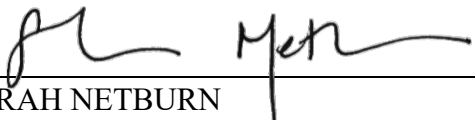
<sup>2</sup> This Report and Recommendation incorporates the contents of the March 3, 2023 Report and Recommendation, ECF No. 8901 at 1–20, but not its Appendix, ECF No. 8901 at 21–26.

estate requests and the Court recommends an award of \$5 million, see ECF No. 9066 at 8 (requesting \$5 million in pain and suffering damages).

Separately, the Court notes that the personal representatives of Latent Injury Decedents **Rebecca A. Buck, Dennis M. Organ, Robert Carlo Rossi, Michael F. Shipsey, and Donna Siciliano** have died. See ECF Nos. 8348-2, 8456-2, 8375-2. To date, no new personal representatives have been substituted. The Court therefore recommends denying their motions with leave to re-file once “proper part[ies]” are substituted. Fed. R. Civ. P. 25(a)(1).

### CONCLUSION

For the reasons discussed above and in its March 3, 2023 Report and Recommendation, see ECF No. 8901 at 1–20, the Court recommends: (1) GRANTING motions for partial default judgment brought on behalf of the Latent Injury Decedents listed in Appendix A;<sup>3</sup> (2) awarding them damages as described in Exhibit A; (3) awarding them prejudgment interest of 4.96 percent compounded annually running from September 11, 2001, until the date of judgment; (4) permitting them to apply for punitive, economic, or other damages later; and (5) DENYING the motions for partial default judgment brought by Surviving Family Members.

  
SARAH NETBURN  
United States Magistrate Judge

DATED: July 18, 2023  
New York, New York

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<sup>3</sup> The Court recommends only the judgments and awards listed in Appendix A attached to this Report and Recommendation. The appendix to the prior Report and Recommendation, ECF No. 8901 at 21–26, is *not* part of the Court’s final recommendation.

\* \* \*

**NOTICE OF PROCEDURE FOR FILING OBJECTIONS  
TO THIS REPORT AND RECOMMENDATION**

The parties shall have fourteen days from the service of this Report and Recommendation to file written objections under 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure. A party may respond to another party's objections within fourteen days after being served with a copy. Fed. R. Civ. P. 72(b)(2). These objections shall be filed with the Clerk of the Court, with courtesy copies delivered to the chambers of the Honorable George B. Daniels at the United States Courthouse, 500 Pearl Street, New York, New York 10007, and to any opposing parties. See 28 U.S.C. § 636 (b)(1); Fed. R. Civ. P. 6(a), 6(d), 72(b). Any requests for an extension of time for filing objections must be addressed to Judge Daniels. The failure to file these timely objections will result in a waiver of those objections for purposes of appeal. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 6(d), 72(b); Thomas v. Arn, 474 U.S. 140 (1985).

**APPENDIX A**

The Court recommends awards for the following Latent Injury Decedents via the personal representatives listed in ECF Nos. 8348-2, 8352-2, 8356-2, 8360-2, 8367-2, 8371-2, 8375-2.

| <b>Estate</b>             | <b>Case</b>                        | <b>Damages</b> |
|---------------------------|------------------------------------|----------------|
| Accurso, Victor L.        | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000    |
| Acevedo, Steven J.        | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000    |
| Achong, Charles William   | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000    |
| Armenta, Daniel Victor    | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000    |
| Askin, Haskell            | <u>Asciutto</u> , No. 20-cv-00411  | \$7,000,000    |
| Atlas, Keith Edward       | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000    |
| Barocas, Sheldon          | <u>Asciutto</u> , No. 20-cv-00411  | \$7,000,000    |
| Bastidas, Mario           | <u>Asciutto</u> , No. 20-cv-00411  | \$7,000,000    |
| Becker, Arthur S.         | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000    |
| Behette, Michael          | <u>Basci</u> , No. 20-cv-00415     | \$7,000,000    |
| Benson, Charles Michael   | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000    |
| Bohlmann, John            | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000    |
| Borowski, Alfred          | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000    |
| Brenneisen, Ronald Robert | <u>Asciutto</u> , No. 20-cv-00411  | \$7,000,000    |
| Bruzza, James             | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000    |
| Byrd, Henry Bruce         | <u>Ahearn</u> , No. 20-cv-00355    | \$7,000,000    |
| Campbell, Maryann         | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000    |
| Cao, Miao Ling            | <u>Asciutto</u> , No. 20-cv-00411  | \$7,000,000    |
| Carlock, Owen Thomas      | <u>Basci</u> , No. 20-cv-00415     | \$7,000,000    |
| Carroll, Norma            | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000    |
| Casaleto, Victor          | <u>Mandelkow</u> , No. 20-cv-00315 | \$5,000,000    |

|                                  |                                    |              |
|----------------------------------|------------------------------------|--------------|
| Cassella, Joseph Patrick         | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000  |
| Chirico, Pat                     | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000  |
| Christofilakes, Christopher      | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000  |
| Codner, Robert Royce             | <u>Asciutto</u> , No. 20-cv-00411  | \$7,000,000  |
| Costello, James Nicholas         | <u>Basci</u> , No. 20-cv-00415     | \$7,000,000  |
| Coyne, Ronald Thomas             | <u>Ahearn</u> , No. 20-cv-00355    | \$7,000,000  |
| DeFrancisci, Thomas              | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000  |
| Dellacona, Richard A.            | <u>Ahearn</u> , No. 20-cv-00355    | \$7,000,000  |
| Devlin, John Charles             | <u>Basci</u> , No. 20-cv-00415     | \$7,000,000  |
| Dillon, John Charles             | <u>Amin</u> , No. 20-cv-00412      | \$7,000,000  |
| Doepfner, Thomas P.              | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000  |
| Dong, John                       | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000  |
| Drobchinskiy, Aleksandr          | <u>Amin</u> , No. 20-cv-00412      | \$7,000,000  |
| Eysser, George                   | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000  |
| Ferguson, Charles                | <u>Ahearn</u> , No. 20-cv-00355    | \$7,000,000  |
| Finck, Kenneth John              | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000  |
| Finelli, Nicholas Gerard         | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000  |
| Fitzpatrick, Joseph Francis, Sr. | <u>Asciutto</u> , No. 20-cv-00411  | \$7,000,000  |
| Garipoli, Christine Noelle       | <u>Ahearn</u> , No. 20-cv-00355    | \$7,000,000  |
| Goggin, John Edward              | <u>Asciutto</u> , No. 20-cv-00411  | \$7,000,000  |
| Gonzalez, Fernando Augusto       | <u>Ahearn</u> , No. 20-cv-00355    | \$7,000,000  |
| Gunzelman, Charles Richard       | <u>Alcabes</u> , No. 20-cv-00340   | \$7,000,000  |
| Haberland, Wayne Kenneth         | <u>Amin</u> , No. 20-cv-00412      | \$7,000,000  |
| Halpin, John James               | <u>Ahearn</u> , No. 20-cv-00355    | \$7,000,000  |
| Harris, Mark                     | <u>Basci</u> , No. 20-cv-00415     | \$10,000,000 |

|                                |                                    |             |
|--------------------------------|------------------------------------|-------------|
| Henry, Keith Owen              | <u>Alcabes</u> , No. 20-cv-00340   | \$7,000,000 |
| Hess, Robert M.                | <u>Asciutto</u> , No. 20-cv-00411  | \$7,000,000 |
| Hittmann, Stephan              | <u>Asciutto</u> , No. 20-cv-00411  | \$7,000,000 |
| Hough, John Joseph             | <u>Amin</u> , No. 20-cv-00412      | \$7,000,000 |
| Humphrey, Nancy Alicia         | <u>Alcabes</u> , No. 20-cv-00340   | \$7,000,000 |
| Iannace, Arthur Bartolomeo     | <u>Amin</u> , No. 20-cv-00412      | \$7,000,000 |
| Jones, Marion Claire           | <u>Alcabes</u> , No. 20-cv-00340   | \$7,000,000 |
| Kahanov, Phoebe Catherine      | <u>Amin</u> , No. 20-cv-00412      | \$7,000,000 |
| Kelly, James Joseph            | <u>Asciutto</u> , No. 20-cv-00411  | \$7,000,000 |
| Krasko, Geraldine              | <u>Asciutto</u> , No. 20-cv-00411  | \$7,000,000 |
| Kristoffersen, John Frank      | <u>Alcabes</u> , No. 20-cv-00340   | \$7,000,000 |
| Laks, Mitchell David           | <u>Alcabes</u> , No. 20-cv-00340   | \$7,000,000 |
| Lampkin, Michael               | <u>Asciutto</u> , No. 20-cv-00411  | \$7,000,000 |
| LaPointe, John Paul            | <u>Alcabes</u> , No. 20-cv-00340   | \$7,000,000 |
| Loughery, Michael John         | <u>Alcabes</u> , No. 20-cv-00340   | \$7,000,000 |
| Lynch, Joseph W.               | <u>Asciutto</u> , No. 20-cv-00411  | \$7,000,000 |
| Machado, Alberto               | <u>Asciutto</u> , No. 20-cv-00411  | \$7,000,000 |
| MacMenamie, Duane F.           | <u>Asciutto</u> , No. 20-cv-00411  | \$7,000,000 |
| MacPherson-Williams, Gwynne K. | <u>Basci</u> , No. 20-cv-00415     | \$7,000,000 |
| Mandelkow, James William, Jr.  | <u>Mandelkow</u> , No. 20-cv-00315 | \$7,000,000 |
| Marcucci, Daniel               | <u>Alcabes</u> , No. 20-cv-00340   | \$7,000,000 |
| Marion, Timothy Charles        | <u>Alcabes</u> , No. 20-cv-00340   | \$7,000,000 |
| Marshall, James J.             | <u>Ahearn</u> , No. 20-cv-00355    | \$7,000,000 |
| Martin, Joseph James           | <u>Alcabes</u> , No. 20-cv-00340   | \$7,000,000 |
| Mausberg, Gary Gerald          | <u>Alcabes</u> , No. 20-cv-00340   | \$7,000,000 |

|                            |                                   |             |
|----------------------------|-----------------------------------|-------------|
| Mazur, Steven              | <u>Amin</u> , No. 20-cv-00412     | \$7,000,000 |
| McCain, Robert Kenner, Jr. | <u>Amin</u> , No. 20-cv-00412     | \$7,000,000 |
| McCoy, Stephen M.          | <u>Alcabes</u> , No. 20-cv-00340  | \$7,000,000 |
| McKee, John Patrick        | <u>Alcabes</u> , No. 20-cv-00340  | \$7,000,000 |
| McQuade, Kevin Patrick     | <u>Alcabes</u> , No. 20-cv-00340  | \$7,000,000 |
| Miller, Trevor Arnold      | <u>Alcabes</u> , No. 20-cv-00340  | \$7,000,000 |
| Morigi, Paul Steven        | <u>Alcabes</u> , No. 20-cv-00340  | \$7,000,000 |
| Morrissey, John Patrick    | <u>Alcabes</u> , No. 20-cv-00340  | \$7,000,000 |
| Mucaria, Marilyn           | <u>Basci</u> , No. 20-cv-00415    | \$7,000,000 |
| Munro, James Bronson       | <u>Ahearn</u> , No. 20-cv-00355   | \$7,000,000 |
| Murphy, Paul               | <u>Basci</u> , No. 20-cv-00415    | \$7,000,000 |
| Mustillo, Michael          | <u>Basci</u> , No. 20-cv-00415    | \$7,000,000 |
| Negri, Robert Daniel, Jr.  | <u>Ahearn</u> , No. 20-cv-00355   | \$7,000,000 |
| Norfort, Michael Peter     | <u>Ahearn</u> , No. 20-cv-00355   | \$7,000,000 |
| Ortiz, Milagros            | <u>Basci</u> , No. 20-cv-00415    | \$7,000,000 |
| O'Sullivan, Daniel         | <u>Basci</u> , No. 20-cv-00415    | \$7,000,000 |
| O'Toole, Joseph            | <u>Basci</u> , No. 20-cv-00415    | \$7,000,000 |
| Petrone, Robert            | <u>Basci</u> , No. 20-cv-00415    | \$7,000,000 |
| Phillips, Stephen E.       | <u>Ahearn</u> , No. 20-cv-00355   | \$7,000,000 |
| Quinn, Michael V.          | <u>Basci</u> , No. 20-cv-00415    | \$7,000,000 |
| Raimondi, Michael, Jr.     | <u>Anderson</u> , No. 20-cv-00354 | \$7,000,000 |
| Rappe, Larry Ordell        | <u>Asciutto</u> , No. 20-cv-00411 | \$7,000,000 |
| Reilly, Robert J.          | <u>Anderson</u> , No. 20-cv-00354 | \$7,000,000 |
| Reingold, Albert           | <u>Amin</u> , No. 20-cv-00412     | \$7,000,000 |
| Relyea, Larry Scott        | <u>Asciutto</u> , No. 20-cv-00411 | \$7,000,000 |



|                             |                                   |             |
|-----------------------------|-----------------------------------|-------------|
| Rexach, Antolino            | <u>Anderson</u> , No. 20-cv-00354 | \$7,000,000 |
| Reynolds, Mary Elizabeth    | <u>Ahearn</u> , No. 20-cv-00355   | \$7,000,000 |
| Rodenheiser, Richard Edmund | <u>Anderson</u> , No. 20-cv-00354 | \$7,000,000 |
| Rolon, Robert               | <u>Anderson</u> , No. 20-cv-00354 | \$7,000,000 |
| Rooney, Kevin A.            | <u>Amin</u> , No. 20-cv-00412     | \$7,000,000 |
| Rozenberg, Boris            | <u>Anderson</u> , No. 20-cv-00354 | \$7,000,000 |
| Sargent, Colin Michael      | <u>Anderson</u> , No. 20-cv-00354 | \$7,000,000 |
| Schiavone, James Anthony    | <u>Amin</u> , No. 20-cv-00412     | \$7,000,000 |
| Scoblic, Joseph M.          | <u>Amin</u> , No. 20-cv-00412     | \$7,000,000 |
| Shea, Michael Patrick       | <u>Anderson</u> , No. 20-cv-00354 | \$7,000,000 |
| Sheldon, William            | <u>Ahearn</u> , No. 20-cv-00355   | \$7,000,000 |
| Sherman, Howard Bernard     | <u>Anderson</u> , No. 20-cv-00354 | \$7,000,000 |
| Simmons, Martin C.          | <u>Anderson</u> , No. 20-cv-00354 | \$7,000,000 |
| Skipton, Stephen E., Sr.    | <u>Amin</u> , No. 20-cv-00412     | \$7,000,000 |
| Smith, Michael Paul, Jr.    | <u>Amin</u> , No. 20-cv-00412     | \$7,000,000 |
| Steiner, Michael            | <u>Anderson</u> , No. 20-cv-00354 | \$7,000,000 |
| Svoboda, Frank Richard      | <u>Anderson</u> , No. 20-cv-00354 | \$7,000,000 |
| Switzer, William E.         | <u>Anderson</u> , No. 20-cv-00354 | \$7,000,000 |
| Thomas, George M.           | <u>Anderson</u> , No. 20-cv-00354 | \$7,000,000 |
| Turner-Cox, Vikki Allyn     | <u>Anderson</u> , No. 20-cv-00354 | \$7,000,000 |
| Vashovsky, Sam              | <u>Amin</u> , No. 20-cv-00412     | \$7,000,000 |
| Vaughan, Stephen            | <u>Anderson</u> , No. 20-cv-00354 | \$7,000,000 |
| Wallace-Rakis, Freddie      | <u>Anderson</u> , No. 20-cv-00354 | \$7,000,000 |
| Walsh, Elizabeth Ann        | <u>Anderson</u> , No. 20-cv-00354 | \$7,000,000 |
| Waters, Gregory Alan        | <u>Asciutto</u> , No. 20-cv-00411 | \$7,000,000 |